

FORM PTO-1390
(REV 10-94)

DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

ATTORNEY'S DOCKET NUMBER

TRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. 3718648.61 HSWO
097011940

U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5)

INTERNATIONAL APPLICATION NO.

PCT/US96/13615

INTERNATIONAL FILING DATE

22 August 1996 (22.08.96)

PRIORITY DATE CLAIMED

22 August 1995 (22.08.95)

TITLE OF INVENTION

METHOD AND COMPOSITION FOR ENHANCED PARENTERAL NUTRITION

APPLICANT(S) FOR DO/EO/US

NAUCK, Michael A. and WAGNER, Fred W.

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Articles 22 and 39(I).
4. ☒ A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
 - a. ☐ is transmitted herewith (required only if not transmitted by the International Bureau).
 - b. ☐ has been transmitted by the International Bureau.
 - c. ☒ is not required, as the application was filed in the United States Receiving Office (RO/US)
6. ☐ A translation of the International Application into English (35 U.S.C. 371(c)(2)).
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
 - a. ☐ are transmitted herewith (required only if not transmitted by the International Bureau).
 - b. ☐ have been transmitted by the International Bureau.
 - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
 - d. ☒ have not been made and will not be made.
8. ☐ A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)).
10. ☐ A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11. to 16. below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☒ A FIRST preliminary amendment.
☐ A SECOND or SUBSEQUENT preliminary amendment.
14. ☐ A substitute specification.
15. ☐ A change of power of attorney and/or address letter.
16. ☐ Other items or information:

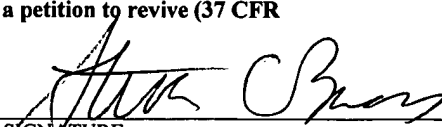
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U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5)X	INTERNATIONAL APPLICATION NO. PCT/US96/13615	AT [] S DOCKET NUMBER 8648 USWO
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17. x The following fees are submitted:				CALCULATIONS PTO USE ONLY	
BASIC NATIONAL FEE (37 CFR 1.492(a) (1)-(5)):					
Search Report has been prepared by the EPO or JPO.....\$930.00					
International preliminary examination fee paid to USPTO (37 CFR 1.492).....\$720.00					
No international preliminary examination fee paid to USPTO (37 CFR 1.482) but international search fee paid to USPTO (37 CFR 1.445(a)(2)).....\$790.00					
Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO \$1070.00					
International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Article 33(2)-(4).....\$98.00					
ENTER APPROPRIATE BASIC FEE AMOUNT =				\$1,070.00	
Surcharge of \$130.00 for furnishing the oath or declaration later than [] 20 [] 30 months from the earliest claimed priority date (37 CFR 1.492(e)).				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	17 -20 = 0		X \$22.00	\$	
Independent claims	3 -3 = 0		X \$82.00	\$	
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ \$270.00	\$	
TOTAL OF ABOVE CALCULATIONS =				\$1,070.00	
Reduction by 1/2 for filing by small entity, if applicable. Verified Small Entity Statement must also be filed (Note 37 CFR 1.9, 1.27, 1.28).				\$	
SUBTOTAL =				\$1,070.00	
Processing fee of \$130.00 for furnishing the English translation later than [] 20 [] 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				+	\$
TOTAL NATIONAL FEE =				\$1,070.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property				+	\$
TOTAL FEES ENCLOSED =				\$1,070.00	
				Amount to be: refunded	\$
				charged	\$

- a. X A check in the amount of \$1,070.00 to cover the above fees is enclosed.
- b. [] Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees.
A duplicate copy of this sheet is enclosed.
- c. X The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any
overpayment to Deposit Account No. 13-2725. A duplicate copy of this sheet is enclosed.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.


SIGNATURE:

SEND ALL CORRESPONDENCE TO:
Charles G. Carter
MERCHANT, GOULD, SMITH, EDELL, WELTER & SCHMIDT, P.A.
3100 Norwest Center
90 South Seventh Street
3100 Norwest Center
Minneapolis, Minnesota 55402

Steven C. Bruess
NAME
34,130
REGISTRATION NUMBER

SMALL BUSINESS

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 C.F.R. 1.9(f) AND 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

- a) ☐ the owner of the small business concern identified below:
b) ☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: BioNebraska, Inc.
ADDRESS OF CONCERN: 3820 Northwest 46th Street
Lincoln, Nebraska 68524
United States of America

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 C.F.R. 121.801-805, and reproduced in 37 C.F.R. 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled METHOD AND COMPOSITION FOR ENHANCED PARENTERAL NUTRITION by inventor(s) Michael A. Nauck and Fred W. Wagner described in

- a) ☐ the specification filed herewith.
b) ☐ provisional application serial no. ___, filed ____.
c) ☒ non-provisional application serial no. ___, filed February 20, 1998, based on PCT/US96/13615, filed 22 August 1996.
d) ☐ patent no. ___, issued ____.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 C.F.R. 1.9(c) or by any concern which would not qualify as a small business concern under 37 C.F.R. 1.9(d) or a nonprofit organization under 37 C.F.R. 1.9(e). *NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. 1.27)

NAME: Michael A. Nauck

ADDRESS: Oberarzt, Medizin. Univ. -Klinik, Ruhr-Universität Bochum, Knappschaftskrankenhaus, In der Schornau 23-25, Bochum 44892, Germany

- a) ☒ INDIVIDUAL b) ☐ SMALL BUSINESS CONCERN c) ☐ NONPROFIT ORGANIZATION

NAME: _____

ADDRESS: _____

- a) ☐ INDIVIDUAL b) ☐ SMALL BUSINESS CONCERN c) ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereof, or any patent to which this verified statement is directed.

NAME: Fred W. Wagner

TITLE: President

ADDRESS: 3820 Northwest 46th Street, Lincoln, Nebraska 68524

SIGNATURE: Fred W. Wagner

Date: March 17, 1998

INDEPENDENT INVENTOR(S)

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS (37 C.F.R. 1.9(f) AND 1.27(b)) - INDEPENDENT INVENTOR**

As a below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 C.F.R. 1.9(c) for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention entitled METHOD AND COMPOSITION FOR ENHANCED PARENTERAL NUTRITION described in

- a) ☐ the specification filed herewith.
b) ☐ provisional application serial no. _____, filed _____.
c) ☒ non-provisional application serial no. ____, filed February 20, 1998, based on PCT/US96/13615, filed 22 August 1996
d) ☐ patent no. _____, issued _____.

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 C.F.R. 1.9(c) if that person has made the invention, or to any concern which would not qualify as a small business concern under 37 C.F.R. 1.9(d) or a nonprofit organization under 37 C.F.R. 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- a) ☐ no such person, concern, or organization
b) ☒ persons, concerns or organizations listed below*

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 C.F.R. 1.27)

NAME BioNebraska, Inc.
ADDRESS 3820 Northwest 46th Street, Lincoln, Nebraska 68524, United States of America
a) ☐ INDIVIDUAL b) ☒ SMALL BUSINESS CONCERN c) ☐ NONPROFIT ORGANIZATION

NAME _____
ADDRESS _____
a) ☐ INDIVIDUAL b) ☐ SMALL BUSINESS CONCERN c) ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereof, or any patent to which this verified statement is directed.

Michael A. Nauck
NAME OF INVENTOR
M. A. Nauck
Signature of Inventor

Date March 19, 1998

NAME OF INVENTOR

Signature of Inventor

Date

NAME OF INVENTOR

Signature of Inventor

Date

09/011940

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: NAUCK, MICHAEL ET AL.
Serial No: Unknown

Int'l Filing Date: August 22, 1996 Concurrently
herewith

Docket No.: 8648.61USWO

Due Date: 21 February 1998

Title: METHOD AND COMPOSITION FOR ENHANCED PARENTERAL NUTRITION

CERTIFICATE UNDER 37 CFR 1.10:

"Express Mail" mailing label number: EM045417026US

Date of Deposit: 20 February 1998

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

By: 

Name: William Smith

Assistant Commissioner for Patents
Attn: BOX PCT
Washington, D.C. 20231

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal sheet in duplicate containing Certificate under 37 CFR 1.10.
- ☒ A check in the amount of \$1070.00 to cover filing fee.
- ☒ A return postcard.
- ☒ Other: Preliminary Amendment (4 pages), Form PTO-1390 (2 pages)

Please charge any additional required fees or credit overpayment to Deposit Account No. 13-2725 A
duplicate copy of this sheet is enclosed.

MERCHANT, GOULD, SMITH, EDELL, WELTER & SCHMIDT
3100 Norwest Center, Minneapolis, MN 55402 (612/332-5300)

By: 

Name: Steven C. Bruess

Reg. No.: 34,130

Initials: SCB:IPD:KMC:bb